

Reminder for DC area folks: [The Mercatus Center will host a book panel on Sep 3, at 2:00](#), on Edward Stringham's new OUP book [Private Governance](#).

It's an excellent book. What's great about it is that Stringham is obviously right. Not "obviously" in the sense of "trivially". Rather, he's making claims that [many think are false or even incoherent](#), but then after you read his book, you realize that the evidence for his claims surrounded you all along.

I'm pasted my response notes below. I didn't write them out in essay form, but you should be able to get the gist. I wrote the stuff below in Word with bullet points, so the formatting might get messed up a bit.

- This is an excellent book, which makes my job hard. If it were a bad book, I could spend lots of time critiquing it. But Stringham is basically right, and so I have the harder task of trying to add something on top of it.
- The question I'm going to ask is: What should philosophers take from all this?
- Book reminds me of Ostrom's work
- Game theoretic model says under conditions C things will be a disaster. We need Leviathan to save us!
- Hobbes
 - In the state of nature, things will be a disaster!
 - So we'll all agree to a Leviathan to save us
 - But Hobbes faces a problem: If we're so bad at cooperating, how are we actually going to be able to reach the agreement to institute a Leviathan in the first place? Hobbes's own logic implies we're just going to kill each other rather than parlay
 - If we're good enough to sit together to make a Leviathan, why aren't we good enough to do other things, without Leviathan hanging over our heads
 - What prevents Leviathan from just eating us all up? Whatever your answer might be, why isn't that good enough to get us to cooperate without Leviathan?
- - Law just appears out of the blue, from a protective force, and solves the problems
 - How did the law arise in the first place? Didn't we have to cooperate enough to get law going? Etc.
 - Legal Centralism is argued for on a priori grounds, but it's actually an empirical claim, and an *obviously* false one.
 - In fact, most of our legal conventions that are now codified into law arose outside government. In common law countries, such as the United States, England, Canada, and Australia, commercial law, merchant law, property law, and tort law actually did evolve in a polycentric legal system, often completely outside of and without any backing from government. These laws governed commercial activity for hundreds of years and were only later adopted by governments.
- ● ●
 - In a one-shot prisoners' dilemma, defection is the dominant strategy.
 - But in iterated, self-sorting dilemmas with reputations, cooperation is dominant
- **Sunstein and Holmes:**
 - A negative right to property is really a positive right to government assistance in protecting your stuff
 - Absent government protection, rights-talk is meaningless—you'd have nothing!

- **Murphy and Nagel's** argument against libertarianism: the Institutional Dependence Argument (IDA).
- It goes like this. The current scheme of income and patterns of property holdings would not exist without government and the taxes that support it. Therefore, I cannot be said to have a natural right to my income, because my income results from social convention. In the state of nature, I have no income to have a natural right to.
- What's right about this: Under alternative institutions, there's not guarantee that my annual income or total net wealth would be the same as it is now. *Of course that's right!* That's econ 101, really. If the US had the same institutions as the USSR did, I'd be poor.
- **Now, I think Murphy and Nagel recognize their argument doesn't work**
 - On its face, the IDA works equally well against liberalism as it does against libertarianism. It undermines equally well A) the view that we have a special, non-conventional claim to our pre-corvée time and B) the view that we have a special, non-conventional claim to pre-tax income received from labor. Yet, despite this, would not accept that the IDA succeeds in defeating liberal objections to the corvée. Accordingly, Murphy and Nagel must think the IDA does not show that we lack at least a prima facie right over our time. Why is this? Why would the IDA work to block a libertarian's objection to income taxation but not a liberal's objection to the corvée? What's the difference?
 - Here is Murphy and Nagel's answer (p 65), which they offer while responding to a libertarian comparison of free contracts and other liberal freedoms: "Egalitarian liberals simply see no moral similarity between the right to speak one's mind, to practice one's religion,...and the right to enter into a labor contract...unencumbered by a tax bite."
 - Murphy and Nagel say that some liberties are at "the core of the self" and must be protected against the state; others are not at the core. They believe this holds even though by their own logic they must admit that their favored kinds of liberties would have little worth (or would not exist) outside of the state's protection, and so the state makes these rights possible.
- But it seems like Murphy and Nagel and Sunstein and Holmes are assuming that without government, you'd have almost nothing, so you can't claim that you have any natural rights to your income.
 - - To do great harm to Nagel, Murphy, Sunstein, and Holmes, he doesn't need to show that anarchism can work
 - Rather: he's showing us that much, probably most of your income and wealth is being protected by private governance, not by public governance. The marginal value of public governance is much lower than everyone assumes.
 - g., most of your transactions are so small that the cost of pursuing protection through government is much higher than the value of what you'd recover if successful.
- How much private governance can we get? Can we dispense with the state altogether?
- Like Boettke, I see anarchism as a research project
- **ARGUMENTS FOR THE STATE:**
- Stringham is part of a tradition, including Ostrom, Schmidtz, Leeson, Beito, and others, showing us that we can get these things without the state.
- As such research progresses, the burden shifts onto the statist to show us why we need state-provided versions of these things.
- **Won't be enough to provide an argument that the state is *better*, by the way**
 - In parallel: The Honda Accord is Better than the Subaru Legacy according to *Car and Driver*
 - **But no one has the right to force you to buy the Accord over the Legacy**
 - The state is not a voluntary arrangement, but an imposition of will.

- the Rawlsian argument:
 - Property rights institutions are legitimate only if they meet certain conditions
 - Rawls doesn't really believe this:
 - Final word: Quoting Jacob Levy:
 - "The state under which one lives does many things. Some of them are useful. But it is not the answer to the question "why is there socially something rather than nothing?" It is not even a good approximate stand-in for the whole sum of social facts and contributions that make "something" possible. And the slippage among recognition, enforcement, and *creation* is terrible."

[Seven Cheers for Murray Rothbard](#)October 28, 2013In "Libertarianism"

[What's the Best Argument for Libertarianism?](#)January 13, 2015In "Libertarianism"

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